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BANGALORE, SATURDAY, MARCH 24, 1951

PART IV

Section-2-A.

BILLS, SELECT COMMITTEE REPORTS, IF ANY, THEREON AND ACTS AND ORDINANCES OF MYSORE.

NOTIFICATION.

No. 6561—L.A., Bangalore, dated 19th March 1951.

As required by Standing Order 36 of the Legislative Assembly Standing Orders, the following report of the Select Committee on the Mysore State Aid to Industries Bill, 1951, with the amended Bill is hereby published.

G. S. VENKATARAMANA IYER,
Secretary,
Mysore Legislature.

MYSORE LEGISLATIVE ASSEMBLY.

BUDGET SESSION, MARCH—APRIL 1951.

Report of the Select Committee on the Mysore State Aid to Industries Bill, 1951.

(Presented on 16th March 1951.)

We, the members of the Select Committee to which the Mysore State Aid to Industries Bill, 1951, was referred, have considered the Bill in detail and have the honour to submit the following report.

Preamble.

Since the Bill is primarily intended to regulate the giving of State aid, we recommend that the Preamble may be recast as follows:

"Whereas it is expedient to regulate the giving of aid by the Government to industries in the State of Mysore;"

Clause 2.

We recommend that the definition of "cottage industry" may be recast as follows:

"(1) 'cottage industry' means any industry carried on by a person at home not being a factory;"

Clause 4.

We consider it unnecessary to provide for the Chairman to be only a nominated member. We think it desirable that the Chairman may be any one of the members of the Board of Industries who may be nominated as such by the Government. We accordingly recommend that the words "including the Chairman and the *ex-officio* member" may be omitted in sub-clause (1); the words "The Chairman and four" in sub-clause (2) may be substituted by the word "five"; and a new sub-clause may be added after sub-clause (2) as follows:

"(3) One of the members of the Board shall be appointed by the Government as Chairman.",

the other sub-clauses being re-numbered suitably.

Clause 8.

We consider it unnecessary to provide for district committees as constitution of such committees would

merely lead to delay in the disposal of applications and is unnecessary in the conditions which obtain in Mysore. We accordingly recommend that sub-clause (4) may be omitted and sub-clause (5) re-numbered as sub-clause (4).

In order that the Board's rejection of an application should be binding on the Government, the Bill requires that the resolution should be unanimous. We consider it sufficient if such resolution is supported by two-thirds of the members of the Board and we accordingly recommend that sub-clause (5), re-numbered as sub-clause (4), may be recast as follows:

"(4) No aid shall be granted under this Act if the Board by a resolution supported by not less than eight members advises the rejection of the application."

Clause 16.

The methods of giving State aid are set out in clause 7. We think that the language of clause 16 may be suitably changed so as to accord with the language of clause 7. We accordingly recommend that for the words "The condition of subscription for shares and debentures by the Government or the guarantee of a minimum return on the capital of any industrial business or enterprise" occurring in the beginning of the clause the following words may be substituted:

"The condition of subscription by the Government for shares and debentures of any industrial business or enterprise or the guarantee by the Government of a minimum return on the capital of a Joint Stock Company."

Proviso (*a*) to this clause requires that the shares subscribed by the Government should not be more than half the paid-up capital. It appears desirable that instead of fixing the proportion in the Act itself, power should be given to the Government to fix the proportion by order. We accordingly recommend that the proviso may be recast as follows:

"(a) for all shares subscribed by the Government, there must be taken up and fully paid for not less than such number of shares as may be fixed by special or general order of the Government;"

New clause.

The Bill makes no provision for empowering the Government to terminate State aid in cases where the aid

has been misapplied or there has been a breach of the conditions of the grant and the like. We consider it necessary to have such a provision in the Bill and we accordingly recommend that after clause 19 a new clause may be added as follows:

"20. If the Government decides for reasons to be recorded in writing to terminate aid in respect of an industrial business or enterprise on any of the following grounds, namely:— Power to Government to terminate aid on account of fault.

(*i*) that any portion of the aid given has been misapplied, or

(*ii*) that there has been a breach by the person in receipt of the aid of the provisions of this Act or of any rule made thereunder or of any condition of the grant, or

(*iii*) that the application on which the aid has been granted contained, or was accompanied by, any material statement by the applicant which he knew to be false, or any intentional concealment by him of any material fact, which in the opinion of the Government it was his duty to disclose, or that any such false statement or concealment was intentionally made in any inquiry made under this Act by or with the connivance of the applicant or in any return under this Act, or in reply to any requisition for information under this Act, or

(*iv*) that the industrial business or enterprise is being managed in such a manner as to endanger the repayment of the value of aid granted thereto repayable under this Act,

the Government may make an order that the aid be terminated and notwithstanding anything contained elsewhere in this Act or in any other enactment, may proceed to recover from the grantee as a public demand—

(*a*) the whole amount of any loan outstanding, together with such interest as may be due thereon, or

(*b*) in cases where the aid is given otherwise than by loan, the money value of the grant as fixed at the time when it was made, together with interest at a rate not exceeding twelve and a half *per cent*, from the date of the grant till the date of realisation, and

(*c*) in the cases mentioned in clause (*a*) or clause (*b*) the cost of recovery, and, if the Government so directs, the cost of any inquiry made in connection therewith,

and such order shall be final."

New clause.

We also consider it necessary to provide for the charging of fees in respect of applications, inquiries, inspections and audit. We accordingly recommend that after new clause 20 as above recommended, another new clause may be inserted as follows:

Fees.

"21. The Government may charge in respect of applications, inquiries, inspections and audit by whomsoever made under this Act, such fees, if any, as may be prescribed."

We recommend that the last two clauses 21 and 22 may be interchanged so that the existing clause 21 comes at the end of the Bill. With the addition of the two new clauses above recommended, clause 21 may be therefore re-numbered as clause 24 and clause 22 as clause 23.

Clause 21 (Clause 24).

We consider it necessary to have some provision for the appointment of a Secretary to the Board so that this would be a statutory appointment. We accordingly recommend that in item (ii) of sub-clause (2), for the words "its staff" the words "a Secretary and staff" may be substituted. In the same item, for the words "remuneration of its members" we recommend that the words "allowances payable to its members" may be substituted. Since sub-clause (4) of clause 8 is proposed to be deleted, we recommend that the words "and the constitution and functions of district Committees" may be omitted from this item.

We recommend that the proviso to this sub-clause may be recast as follows:

"Provided that such rules shall take effect and have the force of law after one month from the date of their publication in the *Mysore Gazette*:

"Provided further that such rules shall be laid on the table of the Mysore Legislative Assembly and may be amended by a resolution passed within one month from the date of notification or, if the Assembly is not sitting, on such date within one month from the date of its next meeting."

Clause 22 (Clause 23).

We recommend that item (*a*) may be recast as follows:

"(*a*) from starting or conducting any industrial business or enterprise;"

We recommend that the words "not exceeding one year" occurring in item (*c*) may be deleted.

We are of the opinion that in order to implement the provisions of this Act and to secure that the aid contemplated under this Act is available to industrial businesses or enterprises requiring such aid, a separate fund should be constituted from out of which such aid could be given. The fund could be augmented by grants made by the Government from time to time as well as by repayments made on account of aid already given.

The Bill was published in the *Mysore Gazette* Extraordinary dated 16th January 1951.

In our opinion the Bill has not been so altered as to require republication.

H. C. DASAPPA (*Chairman*),
M. L. NANJARAJ URS,
MALI MARIYAPPA,
M. GOVINDA REDDY.

Mushir-ul-Mulk J. Mahomed Imam and Sri G. A. Acharya were absent at the meeting of the Select Committee.

Sri A. Bheemappa Naik has not indicated his approval to the report.

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THE MYSORE STATE AID TO INDUSTRIES BILL, 1951

ARRANGEMENT OF CLAUSES.

Clauses

1. Short title, extent and commencement.
2. Definitions.
3. Director of Industries.
4. Board of Industries.
5. No aid except in accordance with the provisions of this Act.
6. Industries to be aided.
7. Method of giving State aid.
8. Application for State aid and procedure in dealing with applications.
9. Grant of loans.
10. Loans how secured.
11. Inspections and returns.
12. Control of business assisted.
13. Repayment of loans.
14. Guaranteeing of loans by Banks.
15. Exemption of small and Cottage Industries.
16. Subscriptions for shares or debentures or guarantee of a minimum return on capital.
17. Subsidy by the Government.
18. Disposal of profits when condition of State aid is not fulfilled.
19. Methods of recovery of money due.
20. Power to Government to terminate aid on account of fault
21. Fees.
22. State aid granted prior to commencement of Act.
23. Powers of Government as regards starting or conducting industries and giving aid of certain kinds.
24. Power to make rules.

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[AS AMENDED BY THE SELECT COMMITTEE.]

(Words underlined or sidelined indicate the changes suggested by the Committee; omission are indicated by asterisks.)

THE MYSORE STATE AID TO INDUSTRIES BILL, 1951.

A Bill to regulate State aid to Industries.

Preamble.

WHEREAS it is expedient to regulate the giving of aid by the Government to industries in the State of Mysore;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore State Aid to Industries Act, 1951.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force at once.

Definitions.

2. In this Act,

(1) "cottage industry" means any industry carried on by a person at home not being a factory;

(2) "Government" means the State Government;

(3) "prescribed" means prescribed by rules made under this Act;

(4) "village industry" means any industry which forms the normal occupation, whether whole time or part-time, of any class of the rural population of the State.

Director of Industries.

3. The Government may appoint any officer or other person to perform all or any of the functions of the Director of Industries under this Act.

Board of Industries.

4. (1) There shall be constituted a Board of Industries consisting of ten members. * * *

(2) * * Five members shall be nominated by the Government, one member shall be elected by the Mysore Chamber of Commerce and three members shall be elected by the Mysore Legislative Assembly from amongst its members. The Manager of the Bank of Mysore Limited, Bangalore, shall be the *ex-officio* member of the Board.

(3) One of the members of the Board shall be appointed by the Government as Chairman.

(4) The election of one member by the Mysore Chamber of Commerce and of three members by the Mysore Legislative Assembly shall be conducted in such manner as may be prescribed. A return of the name of every person elected shall be made to the Government by the President of the Mysore Chamber of Commerce or the Secretary of the Mysore Legislative Assembly, as the case may be, and such return shall be published in the *Mysore Gazette*.

(5) The Board of Industries shall assist the Government in dealing with applications for the grant of State aid under this Act.

(6) No member shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Board of Industries if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested professionally on behalf of a client or as agent for any person other than the Government or a local authority.

No aid except in accordance with the provisions of this Act.

5. No aid shall be given by the Government to any industrial business or enterprise except in accordance with the provisions of this Act.

Industries to be aided.

6. (1) The industries to which aid may be given under this Act shall be such as have an important bearing on the economic development of the country and shall be :

(*a*) new or nascent industries, or

(*b*) industries to be newly introduced into areas where such industries are undeveloped, or

(*c*) cottage industries, or

(*d*) old or established industries :

Provided that aid shall not be given to any old or established industry unless the Government is satisfied that special reasons exist for giving such aid.

(2) No such aid shall be given to any joint stock company unless :

(*a*) the same is registered in India on a rupee capital, and

(*b*) the company conforms to such rules as may be made by the Government from time to time requiring that a minimum number or a proportion of the members of its board of management shall be citizens of India :

Provided further that every recipient of aid under this Act shall make such provision for the training of apprentices as the Government may, from time to time, prescribe.

(3) The decision of the Government as to whether the conditions of this section are fulfilled shall be final and shall not be called in question in any court of law.

Method of giving State aid.

7. Subject to the provisions of this Act and of the rules framed thereunder, the Government shall have power to give aid to an industrial business or enterprise in one or more of the following ways :—

(*a*) by granting a loan ;

(*b*) by guaranteeing a cash credit, over-draft or fixed advance with a bank ;

(*c*) by paying a subsidy, in the case of a cottage industry for any purpose, and in the case of any other industry for the conduct of research or the purchase of machinery ;

(*d*) by subscribing for shares or debentures ;

(*e*) by guaranteeing a minimum return on part of the capital of a joint stock company ;

(*f*) by making a grant on favourable terms of land, raw material, firewood or water ;

(*g*) by supplying at concessional rates electric energy from a source owned by the Government.

Application for State aid and procedure in dealing with applications.

8. (1) Any person desiring to obtain a loan or other aid for any industrial business or enterprise shall make his application to the Director of Industries in such form and shall furnish such information concerning his business as may be prescribed.

(2) If the extent of the aid applied for exceeds Rs. 50,000 and in any other case in which he considers this procedure necessary, the Director of Industries shall publish a notice in the prescribed manner calling upon

any person who objects to the grant of the aid applied for, to state his objections at a time and place to be specified, and shall hear such objections and make such inquiry as may be necessary.

(3) Every application for aid shall be placed before the Board of Industries for advice.

* * * *

(4) No aid shall be granted under this Act if the Board by a resolution supported by not less than eight members advises the rejection of the application.

Grant of loans.

9. No loan shall be granted of an amount exceeding fifty per cent of the net value of the assets of the industrial business or enterprise and of any other property offered as collateral security for the loan, after deducting in both cases existing encumbrances, such value to be ascertained by such person as may be appointed by the Government and in accordance with such rules as may be prescribed; for the purpose of this valuation the additional assets which may be created by the expenditure of the sums granted may be taken into account to such extent as may be prescribed.

Loans how secured.

10. Every loan granted under this Act, shall be secured by a mortgage or floating charge upon the whole of the assets of the business or enterprise, subject to any encumbrances existing at the time of the grant, and by such collateral security, if any, as may be required by the Government, and shall bear interest payable on such dates and at such rates as the Government may determine.

Inspection and returns.

11. In any case in which a loan has been applied for under this Act, the applicant, and at any time during the currency of a loan that has been granted under it, the grantee, shall be bound—

(*a*) to comply with any general or special order of the Government relative to the inspection of the premises, buildings, or plant or stock in hand of the industrial business or enterprise;

(*b*) to permit the inspection of all accounts relative to the industrial business or enterprise;

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(*c*) to furnish full returns of all products manufactured or sold both as regards description and quantity;

(*d*) to maintain such special accounts or to furnish such statement as the Government may, from time to time, require;

(*e*) to submit the accounts of the industrial business or enterprise to such audit as the Government may prescribe.

Control of business assisted.

12. In any case in which a loan or loans is or are granted under this Act, amounting to two lakhs of rupees or upwards, the Government shall, and in any other case may, by the appointment of Government directors or otherwise, take power to ensure such control over the conduct of the business or enterprise as shall suffice in its opinion to safeguard its interests.

Repayment of loans.

13. (1) Every loan granted under this Act shall be made repayable by instalments within such period from the date of the actual advance of the loan, or when the loan is advanced in instalments, from the date of payment of the last instalment, as may be fixed by the order granting the loan.

(2) The period fixed as aforesaid shall not exceed ten years unless the Government shall, by general or special order, extend the same.

Guaranteeing of loans by banks.

14. No guarantee of a cash credit, overdraft or fixed advance with a bank shall be given except under the conditions prescribed in sections 9 to 12 in respect of loans.

Exemption of small and cottage industries.

15. Save as otherwise may be prescribed by rules made under this Act, nothing in sections 9, 10, 11 and 14, shall apply to any industrial business or enterprise with a capital outlay not exceeding two thousand rupees or to cottage industries.

Subscriptions for shares or debentures or guarantee of a minimum return on capital.

16. The condition of subscription by the Government for shares and debentures of any industrial business or enterprise or the guarantee by the Government of a minimum return on the capital of a joint stock company shall be that the business or enterprise shall be subject to the conditions of section 11 in respect of

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inspection and returns as well as to the provisions of section 12 in respect of Government control:

Provided that—

(*a*) for all shares subscribed by the Government, there must be taken up and fully paid for not less than such number of shares as may be fixed by special or general order of the Government;

(*b*) for all capital on which a return is guaranteed by the Government, there shall be paid up not less than an equal amount of capital which carries no guarantee.

Subsidy by the Government.

17. The condition of a grant of subsidy or of any payment under guarantee of a minimum return on the paid-up capital or of the grant of Government land, raw material, firewood or water on favourable terms, or of the supply, from a Government source, of electric energy at concessional rates, shall ordinarily be that an amount equal to the sum paid or to the value of the grant or concession as fixed at the time when it is made, shall be repaid to the Government at the close of a fixed term of years, if, within that term, the industrial business or enterprise shall be shown to be paying interest or a dividend upon the capital invested in excess of such rate as the Government may fix.

No subsidy (to an industry other than a cottage industry) shall exceed forty per cent of the cost of the research or of the cost of the machinery as the case may be.

Disposal of profits when condition of State aid is not fulfilled.

18. No recipient of State aid shall pay any dividend or distribute or take any profits in excess of such percentage rate upon the amount of the capital of the industrial business or enterprise as the Government may fix from time to time until the conditions on which the State aid has been granted are fulfilled. The balance of the profits, after setting aside proper amounts for depreciation or obsolescence of plant and buildings, and for the payment of interest on debentures of loans, shall be carried to a reserve fund to be utilized in such manner as the Government may approve.

Methods of recovery of money due.

19. (1) All moneys payable under this Act, including any interest chargeable thereon and costs, if any, incurred, if not paid when due, may be recovered from the person

aided and his surety, if any, under the law for the time being in force, as if they were arrears of land revenue.

(2) When any sum due as aforesaid is paid by the surety or is recovered from him or out of his property under sub-section (1), the Deputy Commissioner shall, on the application of the surety, so far as possible, recover the same from the person aided and pay the same to the surety.

Power to Government to terminate aid on account of fault.

20. If the Government decides for reasons to be recorded in writing to terminate aid in respect of an industrial business or enterprise on any of the following grounds, namely :—

(i) that any portion of the aid given has been misapplied, or,

(ii) that there has been a breach by the person in receipt of the aid of the provisions of this Act or of any rule made thereunder or of any condition of the grant, or

(iii) that the application on which the aid has been granted contained, or was accompanied by, any material statement by the applicant which he knew to be false, or any intentional concealment by him of any material fact, which in the opinion of the Government it was his duty to disclose, or that any such false statement or concealment was intentionally made in any inquiry made under this Act by or with the connivance of the applicant or in any return under this Act, or in reply to any requisition for information under this Act, or

(iv) that the industrial business or enterprise is being managed in such a manner as to endanger the repayment of the value of aid granted thereto repayable under this Act,

the Government may make an order that the aid be terminated and, notwithstanding anything contained elsewhere in this Act or in any other enactment, may proceed to recover from the grantee as a public demand—

(*a*) the whole amount of any loan outstanding, together with such interest as may be due thereon, or

(*b*) in cases where the aid is given otherwise than by loan, the money value of the grant as fixed at the time when it was made, together with interest at a rate not exceeding twelve and a half per cent, from the date of the grant till the date of realisation, and

(*c*) in the cases mentioned in sub-section (*a*) or sub-section (*b*) the cost of recovery, and, if the Government so directs, the cost of any inquiry made in connection therewith,

and such order shall be final.

Fees.

21. The Government may charge in respect of applications, inquiries, inspections and audit by whomsoever made under this Act, such fees, if any, as may be prescribed.

State aid granted prior to commencement of Act.

22. Any such aid as is referred to in section 7, given by the Government to any industry prior to the commencement of this Act, shall, on the issue of an order to that effect by the Government in the *Mysore Gazette*, be deemed to be aid given under this Act and on the issue of such order, all the provisions of this Act and of any rules made thereunder shall apply to such aid and such industry as if such aid was given to such industry under this Act.

Powers of Government as regards starting or conducting industries and giving aid of certain kinds.

23. Nothing in this Act shall be held to debar the Government;

(*a*) from starting or conducting any industrial business or enterprise; * * * *

(*b*) from assisting an industrial business or enterprise by agreements to purchase on business terms the whole or a portion of the products of the same;

(*c*) from assisting an industrial business or enterprise by giving gratis or on favourable terms, the services of Government officials or experts either in the capacity of advisers or for a limited period * * * for starting or conducting such business or enterprise;

(*d*) from assisting an industrial business or enterprise in connection with industrial education or the training of apprentices;

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(e) from assisting a village industry in any manner which may be determined by the Government.

Power to make rules.

24. (1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, it may make rules regulating all or any of the following matters :—

(i) the classes of industrial businesses or enterprises to which and the purposes for which aid may be given;

(ii) the term of office of the members of the Board of Industries, the quorum at the Board's meetings, the method of arriving at its decisions, the appointment of a Secretary and staff, the allowances payable to its members and all other matters relative to the conduct of its business;

* * * * *

(iii) the manner of making applications for State aid and the information to be given in such applications, provided that no such rules shall require any applicant or grantee of aid to divulge any information relating to the technical details of any process of any patent owned by him;

(iv) the manner of conducting inquiries and the matters to be specially inquired into in dealing with applications for the State aid and the powers to be exercised by the Director of Industries conducting such inquiries;

(v) the mode of ascertaining the value of the assets of an industrial business or enterprise; or of any property offered as collateral security for a loan;

(vi) the nature of the security to be taken for the due application of loans and grants and the rates of interest at which and the conditions under which loans or grants may be given, and the creation of a mortgage, floating charge or collateral security under section 10;

(vii) the inspection of the premises, buildings, plant and stock on hand and the accounts of any industrial business or enterprise for which State aid has been granted;

(viii) the mode of keeping and auditing the accounts and of furnishing returns of any industrial business or enterprise in respect of which State aid has been granted ;

(ix) the appointment and functions of Government directors or the prescribing of other methods of control of industrial businesses or enterprises in respect of which State aid has been granted ;

(x) the application of profits in cases in which the conditions under which loans or grants have been made have not been fulfilled ;

(xi) the guaranteeing by the Government of cash credits, over-drafts or fixed advances by banks and the recognition of banks for this purpose ;

(xii) the fixing of the period for the repayment of loans and the conditions and dates of the repayment of subsidies and grants ;

(xiii) the recovery of any moneys due under this Act ; and

(xiv) the conditions under which and the security on which loans shall be granted or guarantees of a cash credit, over-draft or fixed advance with a bank given to the industries referred to in section 15 :

Provided that such rules shall take effect and have the force of law after one month from the date of their publication in the *Mysore Gazette* :

Provided further that such rules shall be laid on the table of the Mysore Legislative Assembly and may be amended by a resolution passed within one month from the date of notification or, if the Assembly is not sitting, on such date within one month from the date of its next meeting.

G. S. VENKATARAMANA IYER,
Secretary,
Mysore Legislature.